

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKJoseph A. Cunningham Jr.

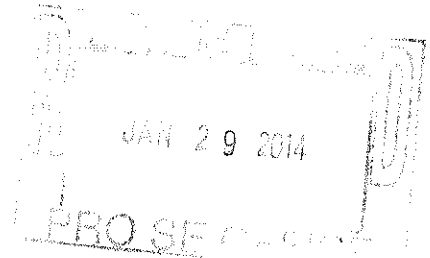
(In the space above enter the full name(s) of the plaintiff(s).)

14 CV 00693-1 COMPLAINT

-against-

Credit Acceptance Corporation
Hon. John A. BaroneJury Trial: ☐ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

**I. Parties in this complaint:**

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Joseph Cunningham
 Street Address 933 E 215 St
 County, City Bronx, New York 10469 Apt #6
 State & Zip Code 10469
 Telephone Number 718-684-1249

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Matthew David Sobolewski
 Street Address 300 Madison Ave, 6th Floor
New York, N.Y. 10017

County, City New York
 State & Zip Code 10017
 Telephone Number 212-653-8867

Defendant No. 2 Name Attorney General office
 Street Address 120 Broadway
 County, City New York
 State & Zip Code 10271-0332
 Telephone Number 212-416-8000

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☒ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue?

Credit Acceptance Corporation / Patriot Act passed under the DOD war powers Act Title 31 Section 5311 Bank Secrecy Act FAIR ACT 15 U.S.C. 1601, 1692, 1693 / Truth Lending Act

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship New York State

Defendant(s) state(s) of citizenship Detroit, Michigan

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events.

You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? Bronx, New York

B. What date and approximate time did the events giving rise to your claim(s) occur? March 6th 2013 Discovery of Disclosure Pay off letter / repused March 29th 2013, April 1, 2013 Def

C. Facts: under the Patriot Act under the DOD under the Emergency bank act the War Powers act of June 5th 1933. The Patriot Act under the War Powers Act Title 31 section 5311, I Joseph Cunningham Demand the 1099 Tax OID, Cusip numbers, I Demand the CMIRIS Currency Money Reports under the Bank Secrecy Act are CFR 103.11 of the Federal Regulations. I Joseph Cunningham Demand all accounting, Currency Reports, FAS 95, GAAP and Thrift Finance Reports, TFR FR 2046 balance sheet 1099 OID 5-3/4 registration statement 424-B5 prospectus and RC-5 + RCB Call Schedules. Please Refer to attach Documents which will explain in Detail the actions of the various Courts. The Above Request will under the Freedom of Information

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. My property was taken from by proper Due process 5 USC 55 (d) My claim Discovery was not honored OR show cause Please refer to attach documents. My Adverse claim was not taken serious, nor the rescinding of my signature under the U.C.C. And I have not received my Recoupment due to the off set of the Accounting ledger OR the proceeds of the Investment. Finally my 2002 C320 Mercedes have not been returned to me.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

Due to the violation of my Remedies under the Counts of Admiralty & Maritime I Demand \$150,000 under the ECC Recognition and the proceeds of my Investment due to the offsetting of the ledger. I also Demand the rapid return of my 2002 C320 Mercedes Benz. I also Demand under the Freedom of Information of all Documents stated within the Laws of the Patriot Act's Bank Secrecy Act's.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 21 day of Jan, 2014

Signature of Plaintiff

Mailing Address

Joseph C. C. C.
933-E 215 St
Bx, H-4-10469

Telephone Number

Fax Number (if you have one)

218-684-1219
H/1-

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____

Inmate Number _____

APPELLATE DIVISION, FIRST DEPARTMENT

Joseph Cunningham
Appellant

Bronx Supreme Court Index
#250-425/2013
Writ of Mandamus

Vs

Hon John A. Barone
Credit Acceptance Corporation

I Joseph Cunningham in Propria Persona a natural person make a special appearance/ Writ of Mandamus before the APPELLATE DIVISION, FIRST DEPARTMENT without waiving any procedural rights or defense as a Moorish American Sui Juris not to be confused nor substituted with Pro-Se. I fall under the Jurisdiction of the United States Constitution and the Common Law.

JUIRISDICTION / BACKGROUND

The Writ of Mandamus is based on obstruction of Equity by the Honorable John A. Barone of the Bronx Supreme Court. The Honorable John A. Barone have presided over case 250-425/2013 for nearly 120 days without a ruling in the favor of the Appellant Joseph Cunningham under 5USC 556 (d). In the record of Bronx Supreme Court Index 250-425/2013 and the UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK 13 CIV 2872 (WHP) you will find documented evidence that Credit Acceptance Corp lost Jurisdiction and fell into default. Within these 120 days Judge John A. Barone have obstructed Equity and have giving Credit Acceptance Corporation loop hole after loop hole in violation of my rights 5 USC 556 (d). In the landmark case Marbury v. Madison of 1803 It seems equally clear that the individual who consider himself injured has a right to resort to the laws of his country for remedy.

This case is surrounding the personal property of Joseph Cunningham a C 320 2002 Mercedes Benz. On March 6 2013 I Joseph Cunningham wrote a letter to Credit Acceptance a Pay off letter, there was also a Writ of Discovery and Disclosure mailed to Credit Acceptance Corp which they never responded to instead an ill legal repossession was commenced on March 29th outside of the Jurisdiction of the Writ of Discovery and Disclosure. Credit Acceptance defaulted and lost Jurisdiction "If Credit Acceptance had Jurisdiction they lost it" A default Judgment was sent to CAC and on April 1st 2013 a sworn verification was filed with the Show Cause at Bronx Supreme Court and then mailed through certified mail on April

3rd 2013 On April 22nd 2013 the case was put on the docket in Bronx Supreme Court. From the outset the clerk of Judge Barone and the Attorney of CAC Matthew D. Sobolewski pushed this case to the United States District Court and the CAC Attorney also filed some frivolous argument that the show cause was not filed correctly. I constantly stated to the court that CAC lost jurisdiction however both the clerk and Judge John Barone discussed something about forwarding certified copies of the documents that were requested inside the writ. I objected to this maneuver and stated to Judge Barone that the only acceptable documents would be the original documents described within the writ.

I mentioned very strongly that CAC lost jurisdiction and that the case should be dismissed in the favor of I Joseph Cunningham under 5 USC 556 (d). Judge Barone continued to advocate for Credit Acceptance Corp although they lost Jurisdiction. The Clerk of Judge Barone and the Attorney of Credit Acceptance Corp **ALSO STATED THAT THIS CASE SHOULD GO INTO FEDERAL COURT, I Joseph Cunningham OBJECTED TO THAT AS WELL MANY TIMES, I OBJECTED, OBJECTED AND OBJECTED THIS FELL ON DEATH EARS. AFTER IT WAS ALL SAID AND DONE Judge Barone wrote an order for CAC to produce the original documents keeping in MIND THIS HAS BEEN IN THE COURT SYSTEMS FOR OVER 120 DAYS AND CREDIT ACCEPTANCE CORP HAS NOT PRODUCED ANYTHING BUT LIES AND OBSTRUCTION OF EQUITY.** I also repeated to Judge Barone that he has con-current jurisdiction to rule on this case and it should not go to the Federal Court system.

Judge Barone adjourned this case to May 6th 2013 when I appeared in court that particular day Judge Barone refused to rule on the case and allowed through a motion by the Attorneys of CAC the case to be moved to UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK OVER MY FURTHER OBJECTION. Judge Barone ignored the default status of Credit Acceptance gave them additional time to come up with the original documents that they have not produced until this day and still have not come up with a ruling after 120 days. The case is over EVEN IF GOD CAME DOWN FROM HEAVEN HE COULD NOT HELP CREDIT ACCEPTANCE CORP. THE CASE IS OVER UNDER 5 USC 556 (d)

The case was eventually transferred to Federal Court in a hearing Under Judge William H. Pauley the III the case was transferred back to Bronx Supreme Court all of which is in the record of both Federal and State Court. In essence this case is over the Federal Court has acted in principle as Appellate Court due to Judge Barone continued disregard of my rights he is clearly obstructing equity.

After the case was transferred back to Judge Barone and there was an appearance by I, Judge Barone had the audacity to talk about having a trial, I objected to a trial and stated that this case should be ruled on in my favor under 5 USC 556 (d) and that all Credit Acceptance Corp claims should be dismissed with prejudice.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK
COUNTY OF BRONX

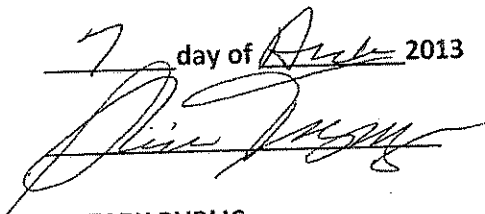
I, Joseph Cunningham being duly sworn depose and says: That on the 7th day of August 2013 I served the documents enclosed upon the following parties Bronx Supreme Court Judge John Barone 851 Grand concourse Bx New York 10451, Seiger Gfeller Laurie LLP 330 Madison Avenue New York, New York 10017 & APPELATE DIVISION 1ST DEPARTMENT 27 Madison Ave New York, NY 10010,

THE DOCUMENTS SERVED ARE IDENTIFIED AS FOLLOWS: WRIT OF MANDAMUS

A true copy of the above referred document was securely sealed in a postpaid envelope addressed to the above mentioned: by depositing the same in a United States Post office mail Box.

Sworn to before me on

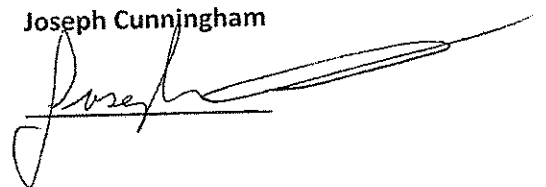
7 day of August 2013



NOTARY PUBLIC

Alicia Trapaga
Notary Public, State of New York
No. 4646704
Qualified in Bronx County
Commission Expires 2/28/14

Joseph Cunningham



Joseph Cunningham
933 East 215 Street
Bronx, New York 10469
347-334-8445
Joe.Cunningham32@aol.com

Matthew David Sobolewski
Seiger Gfeller Laurie LLP
300 Madison Avenue, 6th Floor
New York, NY 10017
212 653 8867
Fax 646 495 2001
msobolewski@sallawagroup.com

RECEIVED

SEP 11 2013

SUP COURT APP. DIV.
FIRST DEPT.

Reply

Index #

250425 / 2013

RE: Fraud, Manipulations and lies of the Bronx Supreme Court & Seiger Gfeller Laurie LLP with a Refusal letter of Arbitration.

Herein you will find a formal letter to the above Law firm pertaining to the status of this case. As of the date indicated below all documents will be forwarded to the United States District Court Southern District of New York for the following reasons "Obstruction of Equity" 42 USC section 1983 for the deprivation of rights. This also includes the Bar Association and the Disciplinary Committee Reports as well.

I Joseph Cunningham filed an Order to Show Cause with the Bronx Supreme Court April 1, 2013. The Primary issue of the Show Cause against Credit Acceptance Corp was the subject of Securitization. The definition of Securitization is the following "Securitization is Illegal" Securitization: The process of homogenizing financial instruments into fungible securities, so that they are sellable on the securities market.

When you sign a mortgage note it comes under UCC Article 3. After securitization, it comes under Article 8. Under US law securitization is illegal because it is fraudulent. Instruments such as loans, credit cards and receivables, are securitized. Enron was involved in securitization and someone brought charges against them. But almost all large corporations are doing it as usual business. However, the banking system and the government are also doing it. These Crimes are Prosecuted under the RICO Acts RICO was enacted by section 901(a) of the Organized Crime Control Act of 1970 (Pub.L. 91-452, 84 Stat. 922, enacted October 15, 1970). RICO is codified as Chapter 96 of Title 18 of the United States Code, 18 U.S.C. § 1961-1968.

Within the Show Cause I demanded under the United States Constitution and the UCC in the form of a Writ of Discovery and Disclosure the original documents of the so-called loan. Credit Acceptance refused to answer the Writ and defaulted. Doing the very first appearance of the Show Cause I Joseph Cunningham asked Judge A. Barone if his Oath of office was under the United States Constitution. The Judge stated yes "of course ". So we proceeded with the case.

Although Credit Acceptance Corporation was in default status doing the first appearance of the Show Cause Judge Barone gave the Attorneys of Credit Acceptance additional time to violate and obstruct my Rights by allowing the Attorneys to work outside of the Jurisdictional time frame of the Writ of Discovery. In essence the case was over before it was started due to the default status of Credit acceptance ignoring the Writ and then illegally stealing my property, the Order to show cause was a special proceeding to claim and recoup the proceeds of the investment and the return of my property.

However Judge Barone sided with the Bank and violated my due process rights 5USC 556 (d) Judge Barone has violated his Fiduciary duty in this case. In essence he is Protecting the Bank by first violating Jurisdiction in April of 2013 by stringing the case along with a recusal sometime in July 2013 which there is no record of.

I never received a document, affidavit a motion nothing regarding the recusal of Judge Barone. I learn that Judge Barone recused himself by a clerk in his court part. There has been no affidavit of service or nothing pertaining to the recusal. And why did he remove himself from this case so far down the line? I believe he is being paid by the bank and that is the conflict of interest. Ultimately Judge John Barone is responsible for the injuries that have been inflicted on me.

Also keeping this Order in mind that was written by Judge Barone on the so-called date of July 22, 2013 Where is the Affidavit of Service and the proof that I was served as mentioned below there is no record of this July 22, 2013 Order.

Credit Acceptance Attorneys did several things although they were in default they continued to refuse to release the original documents of the so-called loan, the lawyers of CAC lied and stated Credit Acceptance was not served properly with the Show Cause which was never a issue with Judge John Barone in fact in a Order That I Joseph Cunningham never read until 9-6-13 by an exhibit within the Attorney General Answer and Affirmation in Opposition To the Petition for Writ of Mandamus which I happen to believe the Order was back dated " Where is the Affidavit of Service of the July 22 2013 order just mysteriously witness on September 6th 2013 Judge Barone States and I quote " This Pro se petitioner has substantially complied with requirements for personal service upon respondent forth in the Order to Show Cause."

However the lawyers of Credit Acceptance used this issue of Jurisdiction and lied all the way to the United States District Court Southern District of New York on April 30th 2013 with this bogus argument an "Obstruction of Equity". I Joseph Cunningham Objected to this transfer "NOTICE OF REMOVAL FROM SUPREME COURT" However the clerk which I do not have a name for at the moment and the Lawyers of Credit Acceptance Corporation navigated the move to Federal Court, thinking that they can finish the case in the District Court.

I stated several times that Judge Barone have Con-current Jurisdiction to rule on this case based on 5USC 556 (d). However there was no stenographer taking the minutes of the appearance. So none of this is on the Record, it's a free for all up in the Bronx Supreme Court a (real Zoo). Bronx Supreme Court wanted this ~~case~~ off its docket because it had become controversial for

C A S C

Judge Barone and Credit Acceptance Corporation. I have documented proof that this so-called loan is an investment.

“MAY 30TH 2013 ORDER: FOR REASONS STATED ON THE RECORD ON MAY 30TH 2013 THIS ACTION IS REMANDED TO NEW YORK STATE SUPREME COURT (BRONX County) for lack of federal jurisdiction. The clerk of the Court is directed to mark this case as closed. Signed by Judge William H. Pauley. CASE REMANDED OUT FROM U.S.D.C. SOUTHERN DISTRICT OF NEW YORK TO THE STATE COURT SUPREME COURT OF THE STATE OF NEW YORK MAIL BY FEDERAL EXPRESS MAY 31, 2013”

NOW DEALING WITH THIS ISSUE the mysterious ORDER WRITTEN BY JUDGE BARONE ON JULY 22, 2013. I have attempted to obtain an Order from Judge Barone by telephone and in person in fact I have gone to his court part in person several times in August 2013 and in late July and early August 2013 no decision. Nothing was mailed to me doing this period of my due diligence, however out of know where all of sudden on September 6 2013 I receive an ORDER DATED JULY 22, 2013, THIS ORDER IS suspicious at best and several red flags go up. I suggest that a forensic Court investigate the recusal and Order of the fraudulent date of July 22, 2013. Order Written by Judge Barone.

1. *According to the clerk Judge Barone was on Vacation doing the first two weeks of July 2013 so let's assume he took his vacation from July 1st 2013 – July 14th 2013 for argument sake. THERE IS NO RECORD OF AN ORDER NO PLACE WRITTEN OR OTHER WISE ON WEBCIVIL SUPREME APPEARANCE DETAIL THE E COURTS OF THE New York STATE UNIFIED COURT SYSTEM. I NEVER RECEIVED AN ORDER FROM THIS JUDGE JOHN BARONE*
2. *If you review the WEBCIVIL SUPREME APPEARANCE DETAIL you will observe on 8-23-13 motion fully submitted 6-24-13 motion fully submitted 6-24-13 fully submitted 5-6-13 adjourned 5-6-13 adjourned and 4-22-13 adjourned.*
3. *Now any intelligent person would ask where is the dated ORDER of July 22, 2013 in fact nothing is mentioned at all in the Web Civil Supreme Appearance Detail E Court File about this Order. Sounds like a cover up to me.*
4. *Recusal Motion where is it you mean to tell me after months on this case 250425/2013 there is no date for the recusal of Judge Barone no Record no E Court Web Civil Supreme Appearance Detail. Where was the Conflict of Interest and with whom?*
5. *The purpose of mandamus is to remedy defects of justice. It lies in the cases where there is a specific right but no specific legal remedy for enforcing that right. Generally, it is not available in anticipation of any injury except when the petitioner is likely to be affected by an official act in contravention of a statutory duty or where an illegal or unconstitutional order is made. The grant of mandamus is therefore an equitable remedy; a matter for the discretion of the court, the exercise of which is governed by well-settled principles.¹³¹*
6. *Mandamus, being a discretionary remedy, the application for that must be made in good faith and not for indirect purposes. Acquiescence cannot, however, bar the issue of mandamus. The petitioner must, of course, satisfy the Court that he has the legal*

right to the performance of the legal duty as distinct from mere discretion of authority.^[4] A mandamus is normally issued when an officer or an authority by compulsion of statute is required to perform a duty and which despite demand in writing has not been performed. In no other case will a writ of mandamus issue unless it be to quash an illegal order.

POINT THE ORDER THAT WAS WRITTEN BY JUDGE JOHN BARONE ON JULY 22, 2013 WAS BACK DATED AND NEVER SERVED TO Joseph Cunningham again as repeated above the Order was discovered in the Attorney General Answer and Affirmation BASED ON THE FACT THAT THE WRIT OF MANDAMUS WAS FILED WITH THE SUPREME COURT OF THE STATE OF NEW YORK APPELLATE DIVISION: FIRST DEPARTMENT. TO COVER UP THE RELATIONSHIP THAT THE JUDGE HAVE WITH THE BANK "CREDIT ACCEPTANCE CORP". NO AFFIADAVIT OF SERVICE was served; this should be SUBJECTED TO A FORENSIC INSPECTION.

In my conclusion the above information is based on the activities of the Bronx Supreme Court and the Attorneys of Credit Acceptance they done nothing but conspire, ambush and sabotage the whole legal process there has been no documented evidence pertaining to the Recusal motion OR THE ORDER BACK DATED July 22nd 2013 unless Judge Lucindo Suarez have managed to keep it between Judge Barone and the Attorney General office. Now the above parties are attempting again to work and operate outside the bounds of Jurisdiction and continue to violate my due process rights. This desperate and foolish argument of arbitration has no jurisdiction in the Appellate Division.

I refuse to participate with the Arbitration process and will not honor the lower court and the Attorneys of CAC interest. In addition, mandatory arbitration may not be imposed without the MEANINGFUL consent of BOTH parties.
(A)The United States Supreme Court has repeatedly stressed that arbitration under the [Federal Arbitration Act (F.A.A.)] is a matter of consent, not coercion.
(a)Allied-Bruce Terminex Co. v. Dobson (1995) 513 U.S. 265, 270;

- (b) *First Options of Chicago, Inc. v. Kaplan* (1995) 514 U.S. 938, 944;
- (c) *Mastrobuono v. Shearson Lehman Hutton, Inc.* (1995) 514 U.S. 52, 55-56;
- (d) *Volt Info. Sciences, Inc. v. Board of Trustees* (1989) 489 U.S. 468, 478.
- (e) *AT&T Tech., Inc. v. Communications Workers* (1986) 475 U.S. 643, 648:

In addition, any arbitration forums chosen by the claimant are unfair and, unconstitutionally violate respondent's rights to due process. A party cannot be required to submit to arbitration to any dispute which he has not agreed so to submit.

I therefore reiterate, I refuse to accept arbitration and dispute your claim in its entirety.

C.C.

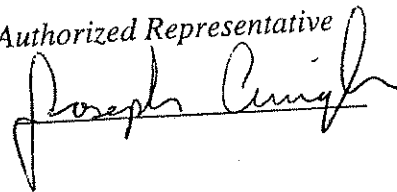
New York Attorney General Office

Supreme Court of the State of New York

Appellate Division: First Department.

Sept 9th 2013

Authorized Representative



AFFIDAVIT OF SERVICE

SUPREME COURT OF THE STATE
OF NEW YORK APPELLATE DIVISION:
FIRST DEPARTMENT

I, Joseph Cunningham being duly sworn depose and says: That on the 9th day of September 2013 I served the documents enclosed upon the following parties, Seiger Gfeller Laurie LLP 330 Madison Avenue New York, New York 10017 & APPELATE DIVISION 1ST DEPARTMENT 27 Madison Ave New York, NY 10010, Attorney General Office 120 Broadway New York, New York

THE DOCUMENTS SERVED ARE IDENTIFIED AS FOLLOWS: Refusal letter for Arbitration.

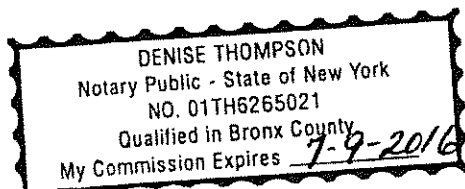
A true copy of the above referred document was securely sealed in a postpaid envelope addressed to the above mentioned: by depositing the same in a United States Post office mail Box.

Sworn to before me on

10 day of Sept. 2013

Denise Thompson

NOTARY PUBLIC



Joseph Cunningham

Joseph Cunningham